

REMARKS

The Examiner is thanked for the performance of a thorough search.

By this amendment, no claims have been added, cancelled, or amended. Hence, Claims 1-14 are pending in the application.

SUMMARY OF THE REJECTIONS/OBJECTIONS

Claims 1-14 have been rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over U.S. Patent Number 6,304,898 issued to Shiigi ("*Shiigi*") in view of U.S. Patent Number 6,457,045 issued to Hanson et al ("*Hanson*").

The rejections are respectfully traversed.

RESPONSE TO REJECTIONS

Each of Claims 1-14 is patentable over the cited art for at least the reason that each of Claims 1-14 features one or more elements that are not disclosed, taught, or suggested by *Shiigi* or *Hanson*, either individually or in combination.

Independent Claims 1 and 8 each feature the following elements:

- establishing a first connection between a mobile device and a gateway using a first protocol;
- wherein said mobile device supports said first protocol but not a second protocol;
- wherein said online community is associated with a server that supports said second protocol but not said first protocol;
- receiving user input that indicates said opinion through user interface controls on said mobile device;
- transmitting opinion data indicating said opinion, using said first protocol, from said mobile device to said gateway;
- transmitting said opinion data, using said second protocol, from said gateway to said server;
- storing said opinion data as part of survey results at said server; and
- transmitting said survey results, using said second protocol, from said server to members of said online community in response to requests received by said server in said second protocol.

The combination of elements shown above is not disclosed, taught, or suggested by *Shiigi* or *Hanson*, either individually or in combination.

Claims 1 and 8 Require the Use of Two Protocols

It is noted that Claims 1 and 8 each expressly feature the use of a first protocol and a second protocol. It is further noted, as featured in elements of Claims 1 and 8, that:

- (a) the mobile device supports the first protocol but not the second protocol;
- (b) the online community is associated with a server that supports the second protocol but not the first protocol;
- (c) the opinion data indicating the opinion is transmitted using the first protocol from the mobile device to the gateway;
- (d) the opinion data is transmitted using the second protocol from the gateway to the server; and
- (e) the survey results are transmitted using the second protocol from the server to members of the online community in response to requests received by the server in the second protocol.

Thus, it is clear from the above that **the first protocol and the second protocol of Claims 1 and 8 cannot be the same protocol.**

The Office Action's Rejection is Based on the Use of a Single Protocol

Numerous elements of Claim 1 and 8 are not shown by the Office Action because rejections of the Office Action use the same protocol, namely Simple Mail Transfer Protocol (SMTP).

The Office Action clearly indicates the first protocol is SMTP. For example, in basing a rejection of the element "transmitting opinion data indicating said opinion, using said first protocol...", the Office Action states "email is a form of communication that contains both objective and subjective information. The email is sent from the user to a server computer that communicates with a gateway computer 240" (col. 5, lines 58-67). The portion cited in *Shiigi* only refers to transmitting data using the SMTP protocol, e.g., this portion states "...component 220a communicates with an SMTP email gateway computer to send email messages using the industry-standard SMTP Internet protocol." Consequently, the Office Action's rejection clearly rests upon the first protocol as being SMTP.

However, the Office Action's rejection clearly rests on the second protocol also being SMTP. For example, in basing a rejection of the element "transmitting said opinion data, using said second protocol...", the Office Action states "the gateway sends the email messages to mail servers 250 (col. 5 line 67, col. 6 lines 1-6)." This portion of *Shiigi* states "the SMTP email gateway sends the email messages to mail servers 250..." Thus, to the extent that the cited portion of *Shiigi* discusses using a protocol to transmit data, it is the SMTP protocol. Consequently, the Office Action's rejection clearly rests upon the second protocol as being SMTP, which is the same as the first protocol. Thus, the rejection of the Office Action does not distinguish between the first protocol and the second protocol.

Numerous Elements of Claims 1 and 8 Are Not Shown

As explained above, the Office Action does not distinguish between the use of first protocol and the use of the second protocol. Consequently, numerous elements of Claims 1 and 8 are not shown, disclosed, or suggested.

The element of "wherein said mobile device supports said first protocol but not a second protocol" is not shown, disclosed, or suggested because the claimed mobile device supports the first protocol but not the second protocol. Since the Office Action's rejection does not distinguish between the first protocol and the second protocol, this element cannot be shown, disclosed, or suggested. Indeed, the approach of *Shiigi* teaches away from this element because the approach of *Shiigi* does not involve the use of different protocols in the transmission of data.

The element of "wherein said online community is associated with a server that supports said second protocol but not said first protocol" is not shown, disclosed, or suggested because the claimed online community supports the second protocol but not the first protocol. Since the Office Action's rejection does not distinguish between the first protocol and the second protocol, this element cannot be shown, disclosed, or suggested. Indeed, the approach of *Shiigi* teaches away from this element because the approach of *Shiigi* does not involve the use of different protocols in the transmission of data.

Further, another logical inconsistency with the rejection of the Office Action is that the rejection attempts to support a teaching of an "online community" in the above

element by a base of email users, but then attempts to show that the protocol that is not supported by a server associated with the online community is SMTP, which is used to transmit email. It is respectfully submitted that an online community associated with a server that does not support a protocol as claimed cannot be shown by a base of email users that receive email using SMTP from an email server if the protocol that is not supported by the server associated with the base of email users is also SMTP; thus, *Shiigi* cannot be read in this manner to render obvious this element of Claim 1 and 8.

Moreover, the element “transmitting said survey results, using said second protocol, from said server to members of said online community in response to requests received by said server in said second protocol” is not shown, disclosed, or suggested because the online community does not support the first protocol, and the rejection alleges that the online community is a base of email users and the first protocol is SMTP, which is a protocol for transmitting email.

Further, it is noted that neither *Shiigi* nor *Hanson* disclose, teach, or suggest “storing said opinion data as part of survey results at said server.” The Office Action does not attempt to show that either *Shiigi* or *Hanson* disclose this element. Rather, the Office Action states that *Shiigi* shows storing opinion data at a server (by showing a mail server storing email), and *Hanson* shows an electronic form such as a poll. Neither *Shiigi* nor *Hanson* disclose the quoted element in the totality of its meaning. The Applicants respectfully submit that this element is not rendered obvious by storing email in an email server and the existence of survey results without the benefit of the teachings of the Applicants specification. Neither *Shiigi* nor *Hanson* disclose “storing said opinion data as part of survey results at said server” and “transmitting said survey results, using said second protocol, from said server to members of said online community in response to requests received by said server in said second protocol.”

Claim 1 and Claim 8 are Patentable Over the Cited Art

As at least one element of Claims 1 and 8 are not shown, taught, or suggested by either *Shiigi* or *Hanson*, either individually or in combination; it is respectfully submitted that Claim 1 and Claim 8 are patentable over the cited art, and each are in condition for allowance.

Claims 2-7 and 9-14 are Patentable

Claims 2-7 and 9-14 are dependent claims, each of which depends (directly or indirectly) on either Claim 1 or Claim 8. Each of Claims 2-7 and 9-14 is therefore allowable for the reasons given above for the claim on which it depends. In addition, each of Claims 2-7 and 9-14 introduces one or more additional limitations that independently render it patentable. However, due to the fundamental differences already identified, to expedite the positive resolution of this case a separate discussion of those limitations is not included at this time, although the Applicants reserve the right to further point out the differences between the cited art and the novel features recited in the dependent claims.

CONCLUSION

For the reasons set forth above, it is respectfully submitted that all of the pending claims are now in condition for allowance. Therefore, the issuance of a formal Notice of Allowance is believed next in order, and that action is most earnestly solicited.

The Examiner is respectfully requested to contact the undersigned by telephone if it is believed that such contact would further the examination of the present application.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any fee shortages or credit any overages Deposit Account No.50-1302.

Respectfully submitted,

HICKMAN PALERMO TRUONG & BECKER LLP



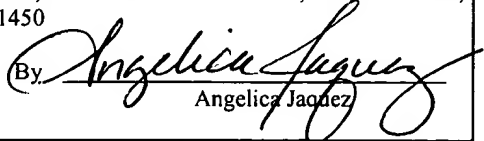
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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: **Mail Stop Amendment**, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

On May 25, 2004

By 
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